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FILED

April 6, 2004

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

DEPARTMENT OF LAW &
STATE OF NEW JERSEY
PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF

JOHN DAVID CUNNINGHAM, M.D.
License No. MA068023

Administrative Action

CONSENT ORDER

TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Medical Examiners upon receipt of information that on or about December 23, 2002, the State of New York, Department of Health, State Board for Professional Medical Conduct ("New York Board") filed a Statement of Charges charging Respondent with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion. Specifically, the New York Board alleged that following an abdomino-perineal resection on Patient A on or about August 6, 1998 at Mount Sinai Hospital, New York, New York, Respondent failed to identify and remove from the patient a

CERTIFIED TRUE COPY

laparotomy pad and zing, and failed to cause an x-ray to be taken of Patient A before such patient left the operating room.

On or about May 28, 2003, the New York Board entered a Determination and Order sustaining the charge against Respondent of professional misconduct for practicing medicine with gross negligence on one occasion as defined in N.Y. Educ. Law § 6530(4) and suspending Respondent's license to practice medicine and surgery in the State of New York for one (1) year. Said suspension was stayed and Respondent placed on probation for a period of two (2) years effective at the time he returns to New York to practice medicine.

The parties being desirous of resolving this matter and the Board finding the within Order to be adequately protective of the public interest and for good cause shown,

ACCORDINGLY, IT IS on this 6th day of Apr, 2004,
ORDERED AND AGREED THAT:

1. Respondent's license to practice medicine and surgery in the state of New Jersey is suspended for one (1) year, said suspension shall be stayed and Respondent shall be placed on probation for a period of two (2) years.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

BY



David M. Wallace, M.D.
Board President

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the New Jersey Board of Medical Examiners to enter this Order.


John David Cunningham, M.D.

2/25/04
Date

Consent as to form and entry:


T. Lawrence Tabak, Esq.

3/22/04
Date

John D. Cunningham, M.D.
License No. MA68023

ADDENDUM

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning *the* license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number: _____

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

¹ Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.